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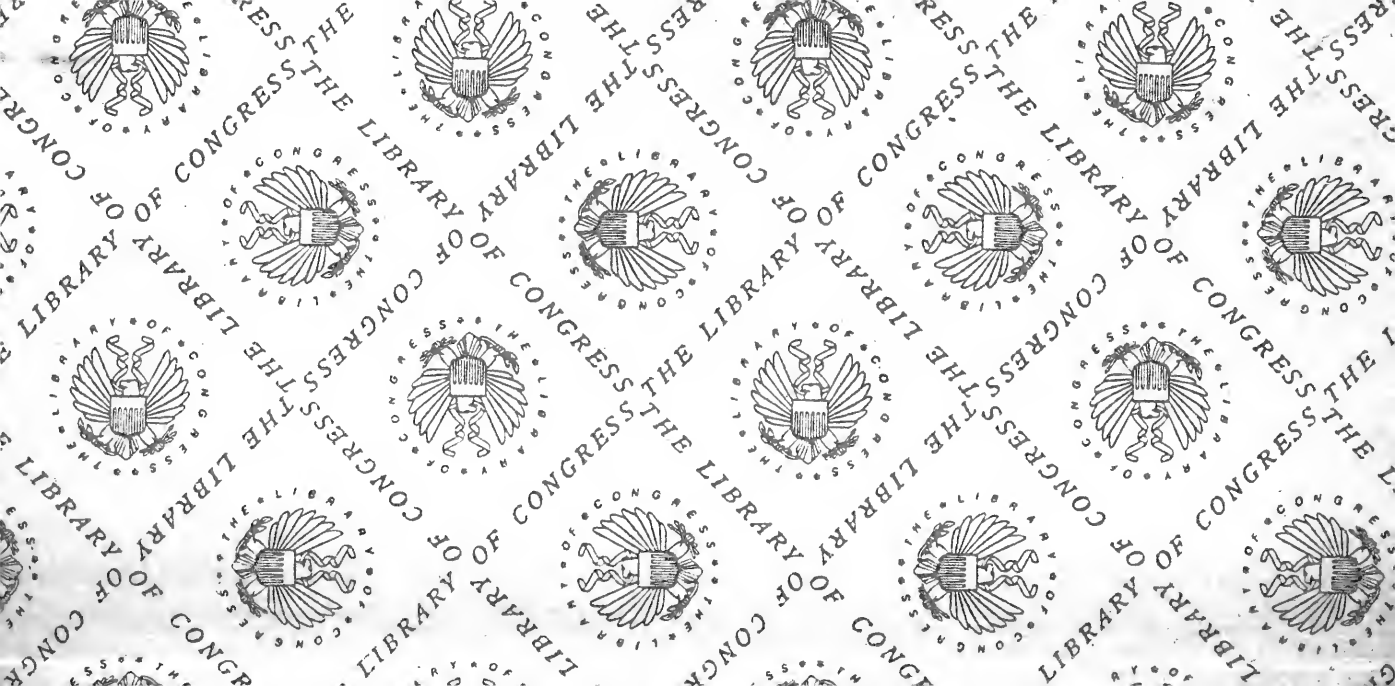
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Shall Cabinet Officers Have Seats in Congress?

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Rumors are once more afloat that there are designs on the part of certain members of both the Senate and the House of Representatives to bring the executive into closer relations with the law-making bodies. Though the subject is a very old one, it has assumed a new interest. It will be recalled that President Taft, shortly before he retired from the Presidency, voiced a growing impression that closer relations between the Executive and the Legislature were not merely desirable, but that they could be arranged in strict accord with the Constitution as it exists and with certain early practices. These views he expressed on at least two notable occasions: first, in response to a toast on the Presidency before the Lotos Club in New York city on November 16, 1912, and again in a special message to Congress on the following December 19. To the message Congress paid no attention, although there was some comment by the press of the country on its specific recommendation. But the practice of President Wilson in addressing the Senate and House in joint session—thus far on nine occasions in two annual and seven special messages—has kept the general problem alive. Especially in respect to appropriations it has long been felt in some quarters that if the several heads of departments, well informed as to special needs of expending money, were themselves present in the House of Representatives to answer questions or to give direction to debate, they might greatly promote the laudable process

towards national economy. In truth, should a plan of introducing the secretariat into Congress be formulated in the present session with any degree of precision, it might, in view of the present interest in the problem, bring forth important—perhaps permanently beneficial—results.

"Constructive legislation, when successful, is," in the words of President Wilson, "always the embodiment of convincing experience, and of the mature public opinion which finally springs out of experience." Applying this sentiment to the present problem even before any clear effort to solve it has taken shape in a bill before Congress, let us examine briefly the course of practices and a few efforts in the past which can in any wise aid towards its solution. In other words, what experiences in the past are there which should now be borne in mind?

The beginnings of the American secretariat go back to the latter days of the Revolution. In the year 1781, when there was only a single-chambered Congress and no provision for what would to-day be termed a Chief Executive, three administrative headships—all of them dependent on Congress—were definitely established over Departments of Finance, Foreign Affairs, and War. Three men, Robert Morris, Robert R. Livingston, and Gen. Benjamin Lincoln, were placed in their charge. At the same period there were also a postal organization under a Postmaster-General, a Marine Department which, for want of a special Secretary, was consigned to Morris's care, and a crude judicial establishment which was really headless, although an attempt in the same year (February 16) to place over it an Attorney-General had been made. The system, under the circumstances, worked haltingly: only two departments, Foreign Affairs and War, and the postal organization

remained under single headships to 1789. But it should not be forgotten that the Congress summoned Morris, Livingston, and, more frequently as time elapsed, John Jay (Livingston's able successor) to appear before it for the purpose of obtaining information and even guidance in the serious problems which then confronted it.

The transition from the Government of the Confederation to the new Government under the Constitution was necessarily to some extent a matter of slow adjustment and compromise. A new office, the Presidency, had been created by the Convention of 1787, not without careful regard to its independence of legislative trammels, and yet to its effectiveness as an organ of administration and direction. A set of administrative officials—the later Cabinet—was so arranged that the President might, if he saw fit, summon it as a body. Both Washington and John Adams, first successive occupants of the new office, were, of course, aware of past practices. Each of them on many occasions and without hesitation addressed Senate and House in joint sessions assembled. Accordingly, they established a practice in this particular respect which, consciously abandoned by President Jefferson in December, 1801, was for the first time thereafter revived by President Wilson when, on Tuesday, April 8, 1913, he chose to address the two houses on the subject of the tariff.

There is to-day a prevalent popular impression—all too commonly voiced by public men and having the sanction of a series of careless writers since the latter days of the Civil War who have considered the historic aspects of the problem—that it was the "early practice" of both Senate and House to admit to their sessions the President's official advisers. Even as careful a writer as

Prof. Charles A. Beard speaks as though the Cabinet sometimes appeared "in person . . . to outline their policies." This impression rests upon several instances of somewhat different character which, whether taken separately or all together, give no real ground for the term "practice." It is usually recalled in this connection that the language of the act of September 2, 1789, creating the Treasury Department—language supposed (but without proof) to have been first suggested by Alexander Hamilton — provided that the Secretary of the Treasury should "make report and give information to either branch of the Legislature *in person* or in writing, as he may be required, respecting all matters referred to him by the Senate or House . . . or which shall appertain to his office."

This, moreover, is the law to-day. But is there, it may be asked, a single instance recorded in our annals of any Secretary of the Treasury ever having been allowed to appear before either Senate or House in person in order to present a report or even to give information? In January, 1790, Hamilton vainly tried to obtain consent of the House to read to it his intricate "Report on Public Credit." Again, in November, 1792, there were those in the House who greatly desired to hear on its floor both Hamilton and Knox respecting the causes and possible consequences of St. Clair's disastrous defeat by the Indians. Nothing whatever came of this but a refusal to permit them to appear. Looking a little farther: the Senate summoned John Jay before it on two occasions in the summer of 1789, first on June 17 to give information with respect to a proposed appointment, and again on the following July 22 to inform Senators about a consular conven-

tion. Twice in August, 1789, Washington, accompanied by Secretary Knox, went before the Senate, then in executive session, for the definite purpose of helping to adjust a treaty with the Choctaw Indians. The latter situation proved so very awkward for everybody concerned that it seems once for all to have established a precedent against its repetition, although it need not be forgotten that the right of the President to come to the Senate for personal consultation is still recognized in the Rules of the Senate. There may possibly have been a few other incidents similar to some of the foregoing during our early years under the Constitution. But they were all of them, it may be confidently asserted, of such a negative nature as to give no substantial ground for the prevalent impression.

Since the beginnings of government under the Constitution, various devices—notably a Speakership gradually acquiring powers that only very recently had to be limited, and an intricate and rather illogical system of Congressional committees—were developed largely for the purpose of coördinating legislative effort with executive administration. After quite fifty years of careful discussion over the general problem—discussion which received marked impetus and guidance through the two efforts in both House and Senate of the late George H. Pendleton, of Ohio, and others to get two bills passed (first in the House in 1864-1865, and again in the Senate in 1879-1882) for the purpose of obtaining seats in Congress for the secretariat, with privileges of debate—it may be reasonably asserted that public opinion has had ample time to reach some degree of maturity on the subject. Even as long ago as 1833, Justice Story, in his "Commentaries," carefully examined the problem before it had received

a hearing in Congress, though it would be going farther than his discussion of it warrants, to say—as has very recently been said—that Story either urged or favored without much qualification the admission of the secretariat to either house.

The truth is that the matter remains today what it has always been—a debatable and undetermined issue. On the one side, favoring admission, stand such names as ex-President Taft, President Wilson, James A. Garfield, James G. Blaine, John J. Ingalls, John D. Long, Perry Belmont, and the late Gamaliel Bradford. So far as President Wilson is concerned, he revealed his position first over thirty years ago in an article in the *Overland Monthly* (January, 1884); and he has not yet indicated in spoken or printed word, so far as I am aware, any change. On the other side are to be found such names as Justin S. Morrill, Thomas B. Reed, Samuel S. Cox, Judge M. Russell Thayer, Freeman Snow, Hannis Taylor, A. Lawrence Lowell, and Hilary A. Herbert—all strongly opposed to any such measure. Accordingly, it may be assumed that, if such a measure were in the near future introduced into Congress, whether with or without President Wilson's recommendation, it would run no unobstructed course, for it has always been regarded as striking at the very heart of our system of government, and as calling for readjustments out of accord with past practices and akin to such practices as have long been associated with the British system of parliamentary government.

That many improvements are to be introduced in future into our system of government, especially in the matter of closer relations between the Executive and the Legislature, no one can doubt who has followed the evidence of institutional progress within re-

cent years. In a thoughtful paper read last December in Washington before the American Political Science Association, Dr. William F. Willoughby, former Treasurer of Porto Rico and now deputy constitutional adviser to the Chinese Republic, attempted to examine this old subject from a present-day standpoint. So far as the departments are concerned, Mr. Willoughby deems it desirable that Congress should reorganize its committees in such a way as to relate them carefully to the ten great departments. He says:

> Only as it does so will it be possible to make the two systems articulate. Only as such articulation is secured will it be possible to make the two systems work in harmony and coöperation with each other. This means in practice that each house of Congress shall have a system of committees corresponding with approximate closeness to the system of organization of the Government. If this is done, not only will responsibility and authority be definitely located, but the two systems will touch at all points, thus permitting of close coöperative relations throughout.

Dr. Willoughby is frankly opposed to any attempt to graft on to our system of government the alien parliamentary practices of the British system, for the simple reason (as he holds) that it could not be done with any regard to our past development.

Our committee system is too deeply rooted to be either ignored or easily modified. Through it we have managed for years to get ahead. We have had no "convincing experience"—to recur to President Wilson's language—on the side of admitting the secretariat into Congress. Moreover, that mature public opinion, which, in the eyes of President Wilson and other thoughtful men, is essential to constructive legislation, has thus far given no unqualified or general support to the plan of admitting Cabinet officers to Congress.

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